

MARTINEZ  
"Cellular Communications Handsets Having Variable  
Appearance Housings And Methods Therefor"  
Atty. Docket No. CS10862

Appl. No. 10/084,965  
Confirm. No. 2203  
Examiner R. Osorio, Art Unit 2673

## REMARKS

### Request for Reconsideration, Informal Matters, Claims Pending

5           The Official action mailed on 14 May 2003 has been considered carefully. Reconsideration of the claimed invention in view of the amendments above and the discussion below is respectfully requested.

10          The provisional election of Claims 10-18 and 21-23 is hereby confirmed. Claims 1-9 and 19-20 have been canceled. Claims 11-13 and 23 have also been canceled.

Claims 10, 14-18 and 21-22 & 24-26 are pending.

### Allowability of Claims Over Prior Art

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#### Rejection Summary

20          Claims 10-13, 21 & 23 stand rejected under 35 USC 102(e) as being anticipated by U.S. Patent No. 6,466,299 (Lehtiniemi). Official Action, 14 May 2003, para. 6.

25          Claim 14 stands rejected under 35 USC 103(a) as being unpatentable over Lehtiniemi in view of US Application No. 2002/0075135 (Bown). The Examiner concedes that Lehtiniemi fails to teach that the portion of the housing is a light emitting polymer material. The Examiner alleges however that it would have been obvious to "... have the light emitting polymer material, as taught by Bown, in the device of Lehtiniemi thus [sic] the

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number of components in the device may be reduced without loss of versatility or functionality (page 1, col. 2, lines 23-25)." Office Action, 14 May 2003, para. 8.

Claims 15-16 and 22 stand rejected under 35 USC 103(a) as being unpatentable over Lehtiniemi in view of Bown and US Patent No. 5,849,046 (Bailey). Conceding that Lehtiniemi "... fails to teach the variable input response variable appearance potion of the housing being an electro-chromic polymer, a color control circuit having a variable output coupled across the electro-chromic material", the Examiner alleges, however, that it would have been obvious to "... have the electrochromic material, as taught by Bailey, in the combined device of Lehtiniemni and Bown because, since the device does not rely on heat, the thermal mass of the battery will not affect the operation of the device. (col. 8, line 61-63)." Office Action, 14 May 2003, para. 9.

15 Discussion of Allowability of Independent Claim 10

Claim 10 has been amended to recite a "control circuit having a user variable output". Contrary to the Examiner's assertion, the prior art fails to disclose or suggest an electronic device, comprising

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... a housing disposed about at least a portion of the electrical hardware,

at least a portion of the housing comprising a variable input responsive variable appearance portion,

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a control circuit having a user variable output coupled to the variable input responsive variable appearance portion of the housing,

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whereby the variable input responsive variable appearance portion of the housing changes appearance in response to the user variable output of the control circuit.

5       None of the references cited disclose or suggest a "... control circuit having a user variable output." The Examiner does not specifically address whether or how Lehtiniemi, Bown and Bailey meet this limitation. The materials disclosed by Lehtiniemi are all controlled by environmental variable, i.e., temperature, incident light, etc. The light-emitting polymer display of Bown and the charge detector of Bailey do not include a control circuit with a user variable output. Claim 10 and the claims that depend therefrom are thus patentably distinguished over Lehtiniemi, Bown and Bailey.

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□

#### Discussion of Allowability of Claim 14

15       Regarding Claim 14, contrary to the Examiner's assertion, Stein fails to disclose or suggest, in combination with the limitations of Claim 10 and any intervening claims, "... the variable input responsive variable appearance portion of the housing is a light emitting polymer material." Claim 14 is thus further patentably distinguished over Lehtiniemi, Bown and Bailey.

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#### Discussion of Allowability of Claim 15

The "color" limitation has been withdrawn from Claim 15.  
25       Contrary to the Examiner's assertion, Stein fails to disclose or suggest, in combination with the limitations of Claim 10 and any intervening claims, "... the variable input responsive variable appearance portion of the housing is an

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electro-chromic material, the control circuit having a variable voltage output coupled across the electro-chromic material." The examiner does not address the "color control circuit" limitation, and the prior art references are silent on the matter. Claim 15 is thus further patentably distinguished over Lehtiniemi,  
5 Bown and Bailey.

Discussion of Allowability of Claim 16

Regarding Claim 16, contrary to the Examiner's assertion, Stein  
10 fails to disclose or suggest "... the electro-chromic material is an electro-  
chromic polymer" in combination with the limitations of Claim 15 and any  
intervening claims. Claim 16 is thus further patentably distinguished over  
Lehtiniemi, Bown and Bailey.

15 Discussion of Allowability of Claim 17

Regarding Claim 17, contrary to the Examiner's assertion, Stein  
fails to disclose or suggest, in combination with the limitations of Claim 10 and  
any intervening claims, "... the electro-chromic material includes an anodically  
20 coloring polymer layer and a cathodically coloring layer separated by a solid-  
state gel electrolyte layer, the anodically and cathodically coloring layers  
disposed between first and second transparent conducting layers."

Some limitations of Claim 17 have been relegated to new  
dependent Claim 25, which depends from Claim 17. The Examiner does not  
25 specifically address the limitations of amended Claim 17. Nevertheless, none

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of the prior art references cited disclose the claimed subject matter. Claim 17 is thus further patentably distinguished over Lehtiniemi, Bown and Bailey.

Discussion of Allowability of Claim 18

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Regarding Claim 18, contrary to the Examiner's assertion, Stein fails to disclose or suggest, in combination with the limitations of Claim 10 and any intervening claims, "... the electro-chromic material includes first and second transparent insulating layers, the first and second transparent conducting layers disposed between the first and second insulating layers." The Examiner does not specifically address the limitations of Claim 10. Nevertheless, none of the referenced cited disclose the claimed subject matter. Claim 18, which has been amended to depend from Claim 17, is thus further patentably distinguished over Lehtiniemi, Bown and Bailey.

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Discussion of Allowability of Claim 25

Regarding Claim 25, Stein fails to disclose or suggest, in combination with the limitations of Claim 10 and any intervening claims, "... the electro-chromic material includes an anodically coloring polymer layer and a cathodically coloring layer separated by a solid-state gel electrolyte layer, the anodically and cathodically coloring layers disposed between first and second transparent conducting layers." The Examiner does not specifically address the subject matter of Claim 24, which depends from Claim 17. Nevertheless, none of the references cited disclose the limitations of Claim 25. Claim 25 is thus further patentably distinguished over Lehtiniemi, Bown and Bailey.

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Discussion of Allowability of Claim 26

5                 Regarding Claim 26, Stein fails to disclose or suggest in combination with the limitations of Claim 17 "... the control circuit having a first output coupled to the first transparent conducting layer, the control circuit having a second output coupled to the second transparent conducting layer by a variable resistance element." Claim 26 recites limitations recited previously in Claim 17. Here too, the Examiner does not specifically address the 10 limitations at issue. Nevertheless, none of the references cited disclose the subject matter of Claim 26. Claim 26 is thus further patentably distinguished over Lehtiniemi, Bown and Bailey.

Discussion of Allowability of Independent Claim 21

15                 Regarding Claim 21, contrary to the Examiner's assertion, the prior art fails to disclose or suggest a method in a wireless communications handset having an outer housing with a variable input responsive variable appearance property portion, comprising:

20                 ... providing a user variable input to the wireless communication handset;  
25                 varying the appearance of the electro-chromic material portion of the housing in response to the user variable input applied to the wireless communication handset.

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None of the references cited disclose or suggest a "... varying the appearance of the electro-chromic material portion of the housing in response to the user variable input...." The Examiner does not specifically address whether or how Lehtiniemi, Bown and Bailey meet this limitation. Claim 21 and the claims that depend therefrom are thus patentably distinguished over Lehtiniemi, Bown and Bailey.

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#### Discussion of Allowability of Claim 22

Regarding Claim 22, Stein fails to disclose or suggest in combination with the limitations of Claim 21 "... providing the user variable input by selecting a voltage applied by an electrical control circuit having a variable voltage output coupled to an electro-chromic portion of the housing." Some limitations of Claim 22 have been relegated to new dependent Claim 24. Claim 22 is thus further patentably distinguished over Lehtiniemi, Bown and Bailey.

#### Discussion of Allowability of Claim 24

Regarding Claim 24, Stein fails to disclose or suggest in combination with the limitations of Claim 21 and any intervening claims "... varying the variable appearance property by changing a color of the electro-chromic portion of the housing in response to a variable voltage applied thereto." Claim 24 is thus further patentably distinguished over Lehtiniemi, Bown and Bailey.

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Prayer For Relief

In view of the amendments and the discussion above, the Claims  
of the present application are in condition for allowance. Kindly withdraw any  
5 rejections and objections and allow this application to issue as a United States  
Patent without further delay.

The Applicant requests a telephone interview with the Examiner  
in connection with the present response. Kindly contact the undersigned upon  
carefully reviewing the foregoing amendment and discussion, prior to  
10 preparing an official action in response thereto.

Respectfully submitted,



ROLAND K. BOWLER II 7 AUGUST 2003  
REG. NO. 33,477

TELEPHONE NO. (847) 523-3978  
FACSIMILE NO. (847) 523-2350

15 MOTOROLA, INC.

20 INTELLECTUAL PROPERTY DEPT. (RKB)  
600 NORTH U.S. HIGHWAY 45, AN475  
LIBERTYVILLE, ILLINOIS 60048

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